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REMARKS

Reexamination and reconsideration of this Application, withdrawal of the rejections, and formal notification of the allowability of all claims as now presented are earnestly solicited in light of the above amendments and the remarks that follow.

Claims 1, 10, 14, 16, and 20 have been amended to indicate that the formulations recited therein further include sodium lauryl ether sulfate. Dependant claims 3, 4, 12, 18, and 22 have been amended to harmonize the claim language with that recited in the respective independent claims. Claims 13, 19, and 23 have been cancelled and the language previously recited therein incorporated into the respective independent claims. New claims 24-26 have been added. The newly added claims incorporate previously filed claim matter, such as from claims 2 and 4. Accordingly, claims 1-12, 14-18, 20-22, and 24-26 are pending in the present application. Applicants respectfully submit that no new matter has been introduced by these amendments. The claim amendments are fully supported throughout the specification, and particularly on pages 4-6. None of the amendments should be considered acquiescence to any claim rejection of record.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by any of Chemical Abstracts XP 002233115, XP 002233116, or XP 002233114. The Office alleges that each of the cited abstracts discloses the claimed sodium PEG-7 olive oil carboxylate as a surfactant and a foaming agent in cleansing or toiletry compositions. Claim 1, as presently amended, recites a cosmetic or dermatological formulation comprising sodium PEG-7 olive oil carboxylate and sodium lauryl ether sulfate. None of the cited abstracts teach or suggest a formulation including both sodium PEG-7 olive oil carboxylate and sodium lauryl ether sulfate. Accordingly, Applicant respectfully submits that none of the cited references teach or suggest each and every aspect of claim 1, as presently amended. Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection.

Claims 2, 8, 9, 20, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over any of Chemical Abstracts XP 002233115, XP 002233116, or XP 002233114, or a combination thereof. Applicant respectfully traverses the rejection.

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The Office argues it would be obvious for one of ordinary skill in the art to use the PEG-7 olive oil carboxylate of any of the above-cited abstracts, in optimum concentrations, as a surfactant in a cleansing composition, such as a bath or shampoo preparation. Applicant respectfully points out that each of the claims cited in the present rejection now, as presently amended, recite formulations, or methods of use thereof, that include sodium PEG-7 olive oil carboxylate and sodium lauryl ether sulfate. As previously noted, none of the cited abstracts teach or suggest a formulation including both sodium PEG-7 olive oil carboxylate and sodium lauryl ether sulfate, or methods of using such formulations. Accordingly, Applicant submits the rejection is obviated in light of the present claim amendments.

However, Applicant does not acquiesce to the Office's position relating to optimization of concentrations, and Applicant further respectfully points out that none of the cited abstracts teach or suggest the use of sodium PEG-7 olive oil carboxylates according to the presently claimed concentrations. Rather, the abstracts would actually motivate one of skill in the art to use concentrations greatly in excess of those presently claimed.

The XP 002233114 abstract, for example, specifically teaches that sodium PEG-7 olive oil carboxylate is a good natural alternative to be used in cosmetics and detergents. Accordingly, one of skill in the art viewing the abstract would find motivation therein to use sodium PEG-7 olive oil carboxylate instead of other surfactants (*i.e.*, as a replacement). Further, one of skill in the art would reasonably understand that using sodium PEG-7 olive oil carboxylate as a replacement would necessitate the use of much greater concentrations than those presently claimed.

The XP 002233115 abstract merely teaches that sodium PEG-7 olive oil carboxylate is skin tolerant. Accordingly, one of skill in the art would not be motivated to combine sodium PEG-7 olive oil carboxylate with other known surfactants, particularly sodium lauryl ether sulfate, and certainly would find no teaching or suggestion of low concentrations, such as those presently claimed.

The XP 002233116 abstract teaches toiletry compositions that are based on olive oil as a cleansing agent. Accordingly, one of skill in the art viewing the abstract would find motivation

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therein to use olive oil products as the main, or at the very least a major, cleansing ingredient in a toiletry composition. As such, one of skill in the art would clearly understand that using an olive oil product as the basis of a formulation would necessitate the use of much greater concentrations than presently claimed. Accordingly, for at least these additional reasons, claims 2 and 21 recite sodium PEG-7 olive oil carboxylate concentrations that would not be obvious to one of skill in the art in light of the cited abstracts. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection.

Claims 1-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,468,514 in view of any one of the above-cited abstracts. Applicant respectfully traverses the rejection.

The Office argues that the '514 patent teaches avoiding sodium lauryl sulfate by combining different types of surfactants so as to replace sodium lauryl sulfate with milder surfactants. The Office still further argues it would be obvious to combine the PEG-7 olive oil carboxylates of the above-cited abstracts with the composition of the '514 patent to arrive at the presently claimed invention. Applicant, however, respectfully disagrees with the Office's characterization of the teachings of the references, and the inferences that may be drawn therefrom.

Particularly, Applicant respectfully submits the Office has failed to show proper motivation to combine the '514 patent with the cited abstracts. The '514 patent teaches mixtures of a surfactant with one or more different co-surfactants. The Office admits the '514 patent fails to teach the use of sodium PEG-7 olive oil carboxylate as a co-surfactant. As noted above, one of skill in the art would view the cited abstracts as teaching formulations wherein sodium PEG-7 olive oil carboxylate is used to replace other more irritating surfactants such that the formulations are based on the olive oil carboxylate. As such, one of skill in the art would find no motivation therein to seek out other references, such as the '514 patent, that teach combinations of surfactants.

Furthermore, one of skill in the art, when viewing the '514 patent, would find no motivation to seek out the olive oil carboxylate surfactant described in the cited abstracts. The

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'514 patent specifically teaches the use of acylamino acids as co-surfactants for increasing the mildness of a formulation. This group of compounds in no way teaches or suggests sodium PEG-7 olive oil carboxylates. Sodium PEG-7 olive oil carboxylates represent an entirely separate class of compounds from the acylamino acids described in the '514 patent, and sodium PEG-7 olive oil carboxylates could in no way be viewed as merely obvious variants of the class of co-surfactants (acylamino acids) described in the '514 patent.

The Office has also failed to point out any particular teaching in the '514 patent that would provide suggestion or motivation for one of skill in the art to seek out any non-acylamino acid compounds (and particularly sodium PEG-7 olive oil carboxylates) for use as co-surfactants. In fact, there is no specific or inherent teaching therein that would motivate one of skill in the art to seek out other compounds, particularly non-acylamino acid compounds, and more particularly sodium PEG-7 olive oil carboxylates, for use as co-surfactants as described therein. Rather, Applicant respectfully submits the Office is relying on impermissible hindsight and using the surprising effects of the formulation of the presently claimed invention to provide motivation to combine the '514 patent with the cited abstracts where no such suggestion or motivation to combine can be found in the cited references themselves.

Even if the cited references are properly combinable, which Applicant obviously does not admit, the combination still would not teach or suggest many claims of the present invention. The present invention is directed to a cosmetic or dermatological formulation comprising sodium PEG-7 olive oil carboxylate and sodium lauryl ether sulfate, and methods of use thereof. In particular, claim 2 recites a formulation wherein the sodium PEG-7 olive oil carboxylate is present in an active content of 0.01 to 1.8% by weight. Further, claim 4 recites a formulation wherein the sodium lauryl ether sulfate is present in a concentration of 7 to 12% by weight.

As already noted, one of skill in the art would find no teaching or direction from any of the above-cited abstracts, either alone or in combination, to prepare a formulation comprising sodium PEG-7 olive oil carboxylate and sodium lauryl ether sulfate, particularly wherein the components are present according to the concentrations recited above. The cited abstracts teach that sodium PEG-7 olive oil carboxylate has "low toxicity and irritancy" (XP 002233114), is

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"skin tolerant" (XP 002233115), and is "mild and natural" (XP 002233116). This, however, is completely inadequate to teach or suggest to one of skill in the art the surprising effects of the present invention achieved through a formulation of sodium PEG-7 olive oil carboxylate and sodium lauryl ether sulfate. The presently claimed invention surprisingly makes it possible to prepare skin-friendly formulations based on anionic surfactants lessening the irritating effect of sodium lauryl ether sulfate by addition of "catalytic" amounts of sodium PEG-7 olive oil carboxylate, such as amounts according to the concentrations recited in claim 2.

To the contrary, one of skill in the art, viewing the cited abstracts, would be motivated to use much greater amounts of the olive oil carboxylate. For example, one of skill in the art would seek to use an amount of the olive oil carboxylate useful to replace other surfactants (XP 002233114), or an amount useful to base the composition on the olive oil carboxylate (XP 002233116). Such amounts would clearly exceed the "catalytic" amount of sodium PEG-7 olive oil carboxylate used according to the presently claimed invention.

Furthermore, the '514 patent teaches formulations incorporating sodium lauryl ether sulfate in concentrations well in excess of those used in the present invention. According to the present invention, it is possible to prepare formulations with a reduced total content of surfactants. In particular, the presence of catalytic amounts of sodium PEG-7 olive oil carboxylate allows for preparation of formulations using greatly reduced concentrations of sodium lauryl ether sulfate. For example, according to claim 4 of the present invention, formulation can be prepared using sodium lauryl ether sulfate in a concentration of 7 to 12% by weight. According to the various examples of the '514 patent, no less than 25% by weight of sodium lauryl ether sulfate is used, and the concentration is generally more in the range of 40% or more (see Examples 1-10 of the '514 patent).

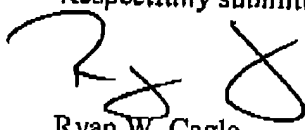
In light of the foregoing, Applicant respectfully submits that the cited references are distinguishable from the claimed invention and request reconsideration and withdrawal of the rejections. It is believed that all claims presented herewith are in condition for immediate allowance. It is requested that the Examiner telephone the undersigned should the Examiner have any comments or suggestions in order to expedite examination of this case.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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